

AMENDED IN SENATE APRIL 23, 2014

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1302

Introduced by Senator Wyland

February 21, 2014

An act to amend Section 259 of the Probate Code, relating to elder abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1302, as amended, Wyland. Elder abuse.

Existing law imposes restrictions upon a person's or beneficiary's entitlement to the estate of a decedent who was an elder or dependent adult if the person or beneficiary has committed certain acts against the decedent, including, but not limited to, physical abuse, neglect, or financial abuse.

This bill would recast those provisions to instead provide that a person shall be deemed to have predeceased a decedent if he or she is liable for physical abuse, neglect, or financial abuse of the decedent pursuant to the Elder Abuse and Dependent Adult Civil Protection Act, or if that person has been convicted of a violation of provisions prohibiting willfully causing or permitting any elder or dependent adult to suffer, or inflicting thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causing or permitting the person or health of the elder or dependent adult to be injured, or willfully causing or permitting the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, as specified, in which the decedent was the

victim. The bill would provide that any person who is deemed to have predeceased the decedent shall not receive any property, damages, ~~or costs~~ *costs, or restitution* that are awarded to the decedent's estate whether that person's entitlement is under a will, a trust, or the laws of intestacy, nor serve as a fiduciary on behalf of the decedent's estate or trust.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 259 of the Probate Code is amended to
2 read:

3 259. (a) Any person shall be deemed to have predeceased a
4 decedent to the extent provided in subdivision (b) if ~~all~~ *either* of
5 the following apply:

6 (1) The person is liable for physical abuse, neglect, or financial
7 abuse of the decedent pursuant to the Elder Abuse and Dependent
8 Adult Civil Protection Act (Chapter 11 (commencing with Section
9 15600) of Part 3 of Division 9 of the Welfare and Institutions
10 Code).

11 (2) The person has been convicted of a violation of Section 368
12 of the Penal Code in which the decedent was the victim.

13 (b) Any person deemed to have predeceased a decedent to the
14 extent provided in subdivision (a) shall not do either of the
15 following:

16 (1) Receive any property, damages, ~~or costs~~ *costs, or restitution*
17 that are awarded to the decedent's estate whether that person's
18 entitlement is under a will, a trust, or the laws of intestacy.

19 (2) Serve as a fiduciary on behalf of the decedent's estate or
20 trust.

21 (c) For purposes of this section, the following definitions shall
22 apply:

23 (1) "Physical abuse" has the same meaning as defined in Section
24 15610.63 of the Welfare and Institutions Code.

25 (2) "Neglect" has the same meaning as defined in Section
26 15610.57 of the Welfare and Institutions Code.

27 (3) "Financial abuse" has the same meaning as defined in
28 Section 15610.30 of the Welfare and Institutions Code.

- 1 (d) Nothing in this section shall be construed to prohibit the
- 2 severance and transfer of an action or proceeding to a separate
- 3 civil action pursuant to Section 801.

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